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ABSTRACT

With appropriate guidelines, collective bargianing can be an important force for the improvement of American public education. The major problem now is that wholesale adoption of the private-sector bargaining model gives teachers disproportionate power in negotiations. Most state collective bargaining laws are modeled after the private-sector bargaining model, which assumes that consumers constrain the demands of both employers and employees and that failure to reach agreement results in lost profits for employers and lost wages for employees. These results are unlikely in the public sector. To make collective bargaining work for the public's benefit, a new balance of power must be achieved between teachers' representatives and the representatives of the public. Steps must also be taken to greatly increase the public's influence on educational decision-making. Reform of the collective bargaining system must be accompanied by reform of the educational governance system. (Author/JG)

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COLLECTIVE BARGAINING AND THE CONTROL OF EDUCATION: NEEDED REFORMS

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COLLECTIVE BARGAINING AND THE CONTROL OF EDUCATION: NEEDED REFORMS

Introduction

Collective bargaining is producing dramatic changes in the governance of American schools. The dominance of professional administrators is being challenged by teachers who are rapidly gaining control over many aspects of school operations.

Many educators believe collective bargaining will destroy the public school system as it exists today. They warn that school boards will become emasculated if the strength of teacher organizations continues to increase, and the little control the public now has over schools through its elected representatives will be lost. Teachers will demand and receive a larger and larger share of the educational dollar, leaving little for program improvement or innovation. The public will lose confidence in the schools and become increasingly unwilling to vote the funds needed to maintain quality public education. Teachers' demands for higher salaries, and the subsequent loss of public support will doom schools to mediocrity.

This gloomy picture of the consequences of collective bargaining in public schools is overdrawn. There are many problems with the way that

collective bargaining is currently being conducted in states which permit collective bargaining for teachers. These problems can be dealt with, however. In fact, with an appropriate set of ground rules collective bargaining can be an important force for the improvement of American public education.

There are several possible advantages of collective bargaining which prompt this optimistic point of view.

1. Students will learn more about democracy if they experience more democratic decision-making in the schools.

2. The right to participate in decisions affecting one's working conditions is a fundamental American right, and should not be denied employees in the public sector.

3. Collective bargaining may increase teachers' commitment to their profession and thereby the quality of instruction in the schools.

4. Collective bargaining will force some districts to develop more effective management.

The major problem now with collective bargaining in public education is that the wholesale adoption of the private sector bargaining model will give teachers a disproportionate amount of power in the negotiations process. Already weak school boards will find themselves with a formidable opponent and inadequate resources for bargaining effectively. To make collective bargaining work for the benefit of the public, a new balance of power must be achieved between the public's representatives

and the representatives of the teachers. This can only be done by revitalizing the legislative side of school governance.

The Appropriateness of the Private Sector Bargaining Model in Public Education

Most collective bargaining laws enacted by state legislatures across the country are modeled with only minor exceptions after the private sector bargaining model. The question is whether this form of collective bargaining is appropriate in public education. Is decision-making in the public sector sufficiently different from the private sector that different arrangements are needed to settle disputes between management and labor? In answering this question we must keep the welfare of the public in mind. Does this particular form of collective bargaining serve the public interest? If not why? And how could collective bargaining be carried out to the mutual benefit of all interested parties?

In discussing the applicability of the private sector bargaining model, we must look both at what collective bargaining involves and at the institutional assumptions underlying it.[1] Collective bargaining is a process by which employees negotiate with employers over the terms and conditions of their employment. Wage settlements clearly affect the price of goods or services, since labor costs are an important component of production costs. In education, where 70 to 80 percent of total costs are salaries and personnel benefits, collective bargaining settlements are closely related to the price of education.

Besides affecting the tax price of education, collective bargaining also has important educational policy implications. In situations where teachers' unions negotiate on questions of class size and personnel transfers, for instance, the impact is direct. But even when negotiations are limited to economic issues, the fact that 70 to 80 percent of a school's budget is absorbed by teachers' salaries means that many program alternatives hinge on the final wage settlement.

The private sector bargaining model is based on several important assumptions about the relationship between the parties at the bargaining table and final consumers of the goods and services produced.[2] Specifically, the model assumes that the bargaining behavior of both employers and employees is constrained by the behavior of consumers in the marketplace.

In the private sector, a change in the price of an organization's services due to collective bargaining may lead to a variety of responses. Consumers may pay the higher price, realizing that it may be spread over a number of months or years. On the other hand, they may postpone buying the product because it is too costly. Or they may choose another brand or a cheaper substitute. The fact that consumers have the choice of buying or not buying places a constraint on the bargaining strategies of both management and labor. Employers want to

maximize profits, so they attempt to hold down costs as much as possible. Unions are also faced with a similar constraint.

> A price rise of [the] product relative to others will result in a decrease in the number of units of the product sold. This in turn will result in a cutback in employment. And an increase in price would be dictated by an increase in labor cost relative to output, at least in most situations. Thus, the union is faced with some sort of rough trade-off between, on the one hand, larger benefits for some employees and unemployment for others, and on the other hand, smaller benefits and more employment.[3]

Consumers, in other words, have an important role in collective bargaining in the private sector. Since employers want to maximize profit, and employee representatives are concerned about the continued employment of their members, both sides must anticipate the likely response of consumers.

The role of the consumers is not so clear in the economics of public sector bargaining. In the first place, it is often difficult to identify the ultimate consumer of many public goods. Clearly there are obvious beneficiaries of most public programs. In education, the students (and indirectly, their parents) are primary recipients of educational services. Less direct consumers include firms and government agencies which take advantage of a labor force trained by schools. Other citizens benefit to the extent that democratic government is improved by an educated electorate or by virtue of the psychic satisfactions of helping to educate children.

But even when the ultimate consumers of education can be clearly identified, there is no direct link to indicate the consumer's reaction to an increase in the tax price of public goods resulting from a negotiated settlement. In public education students usually do not have the option of changing schools, postponing schooling, or consuming a smaller quantity of education. Management and union representatives are constrained in negotiations on economic matters only by the withdrawal of public support in budget elections or by public protests.

Collective bargaining may also lead to a change in the quality of services being provided. This is particularly troublesome when it occurs in education, since there is little recourse for dissatisfied students, parents, or members of the public. The reason for this lies in the differences between private and public sector decision-making, and again it raises questions about the applicability of the private sector model to collective bargaining in the public sector.

Assume for a moment that the performance of an organization in the private sector begins to deteriorate. The lapse in performance may result from changes in the demand and supply situation facing the organization, in which case it cannot be helped. But even if the poor performance results from poor management or unreasonable labor demands, we are not too worried. Consumers simply quit buying the inferior goods or services and switch to another product. In a competitive market economy one firm's loss is another firm's gain. Competing firms absorb the market

share of the faltering firm, hire its employees, and thus reestablish market efficiency. As with changes in the price of a product, changes in quality are dealt with by the marketplace, as individuals exercise their right to buy or not buy a product.

This is, of course, a simplistic notion of the self-correcting market process in the private sector. In a complex industrial society there are many factors which limit consumers' ability to control market behavior.[4] Where production is controlled by monopolistic or oligopolistic firms, consumers may have little or no choice between alternative goods and services. Nevertheless, large segments of private activity are constantly monitored by cost-conscious and quality-conscious consumers.

In public education, as in most public sector activities, consumers have few choices in responding to the performance of public organizations. Because of the compulsory nature of public education and its reliance on taxation for revenues, there are few market choices which can reverse a process of decline. If parents are dissatisfied with the quality of educational services, for instance, they usually cannot move their children to other schools without substantial costs. Nor can they express their dissatisfaction by withholding school taxes. Public schools receive tax support even when they are closed by strikes. The only feasible recourse for dissatisfied citizens is to complain to the school board

or anyone else who will listen. Many parents feel that the impact of such complaints is extremely low.

Although market competition serves as an effective constraint on collective bargaining in the private sector, it fails to restrict public management or labor because of the virtual monopoly enjoyed by most public services and the separation between the revenue raising and product distribution processes. The direct link between consumers and producers in the private market is replaced by uncertainty over who the final consumers of public goods are and how their preferences are communicated.

There is another important difference between private and public sector decision-making which makes collective bargaining in the two sectors different. If the parties involved in private sector bargaining cannot reach a settlement, labor will strike or management will lock out the employees. The result is an economic hardship for both sides. The employer loses sales and profits, and a prolonged strike may force the company out of business. Workers, on the other hand, lose wages. Both parties suffer as a result of their inability to reach agreement. Consumers are also inconvenienced, but only to the extent that they may have to wait to purchase a particular product.

A strike against a public agency, however, has little or no effect upon the agency's continued income. Some states withhold state aid if schools

are not open a specified number of days, but generally taxes will be collected and apportioned to an agency despite the curtailment of its services. A strike by public employees, therefore, must be aimed at the consumers of public services rather than management.[5] By withholding public services the unions put pressure on consumers. While consumers may do without cars or new housing for some time, the loss of mail delivery, electric power, schools, or police protection creates an immediate hardship. Since clients usually cannot purchase public services elsewhere, they can only apply political pressure on their elected representatives or the managers of the public agency to settle the strike and restore service.

Strikes in the public sector are also less likely to lead to economic losses for the employees than in the private sector. Knowing that most public services are essential for the health and safety of a community, public employees do not need to fear a long period without wages. The fear of lost wages is even less among teachers, since most states require schools to be in session for a minimum number of days each year. Any wages lost due to a strike are almost always made up by adding additional days of work throughout the year or at the end of the year.

As a result, strikes in the public sector are distinctly more political than in the private sector. Their purpose is not to create economic hardship, since neither public management nor public employees are likely

to lose income or wages, but to inconvenience the consumers of public services and create political pressures for a quick settlement. To the extent that public employees substitute political pressures for economic pressures, the private sector model may have to be altered to allow management the same access as labor to political processes. However, the elimination of politics from the management of public education and restrictions on the use of politics in collective bargaining currently work to the distinct disadvantage of management in public collective bargaining.

It should be pointed out that the motivations of management in the two sectors are different. Private employers are primarily concerned with profits, so labor demands which threaten long-term profits are unacceptable. Sometimes a strike or lockout is in the company's best interest. Private employers are under no compulsion to remain in business and may, if it is in their economic interest, close their plants and cease operations. However, managers of public agencies try at all cost to maintain or expand services. School boards, for example, do not have the option of closing schools; they are required by law to operate the schools as best they can. A strike against a public agency is likely to be seen as a failure by the agency to perform its mission.

In summary, the private sector model of collective bargaining assumes that consumers constrain the demands of both employers and employees by their decisions to buy or not buy the goods or services of an organization.

This constraint works relatively well in the private sector, but the absence of market choices and the separation of tax revenues from the consumption of public services makes the market constraint ineffective in most public sector situations.

Furthermore, the private sector model assumes that failure to reach agreement will result in costs to both employers and employees. The employer will lost profits and the employees will lose wages. Both of these results are less likely to occur in the public sector. The income of public agencies is generally unaffected if a strike occurs, while public employees know the chance of a long and costly strike is slight because a strike is usually unacceptable politically. So instead of producing economic pressure for a settlement, strikes in the public sector are designed to create political pressure for a settlement.

Finally, the private sector model assumes that both employers and employees are free to withhold their services if an agreement is not reached. Employers can refuse to hire workers, and workers can refuse to work. This assumption does not apply in the public sector. Management is obligated by law (as are employees, in many states) and expected by the public to provide public services. The reluctance of management to accept a strike weakens their bargaining position.

Needed Reforms

The essential need today, therefore, is to establish a pattern of educational governance that creates a new balance of power among those responsible for educational policy. Steps must also be taken to greatly increase the influence of the public on educational decision-making. Since there is no inherent consumer sovereignty in public education, public control of schools can only be re-established by revitalizing the legislative process of educational governance and opening up channels for direct citizen participation in school government. To accomplish these purposes, reform of the collective bargaining system must be accompanied by reform of the system of educational governance.

A number of recommendations for the ground rules of collective bargaining follow from this analysis:

1. States that do not have collective bargaining laws should enact such a law guaranteeing the right of teachers to organize and negotiate with management on matters relating to teacher welfare.

2. State laws should not give an advantage to either side. The rules must be carefully designed to provide each side incentives to reach agreement. For example, there must be no binding arbitration, because both sides must recognize they have something to gain and something to lose from the bargaining process.

3. State law should not mandate teacher tenure but leave it to local bargaining. States should also give local districts a freer hand in hiring personnel through such devices as loosening certification regulations.

4. State laws specifying the length of the school year should also be eliminated or relaxed. Under present state law, teachers know that any salary they lose during a strike will be made up at the end of the school year.

5. States should open up bargaining to the public through open meeting laws and encouraging dissemination of information about negotiations. States should not intervene in local disputes through the governor trying to be the mediator or arbitrator.

6. School boards should assume more of the responsibility for negotiations. To do this they need to have an independent staff which is not tied to the school bureaucracy.

7. The most important collective bargaining reform at the district level is to open up the process to the public. The public should be included in the preparation of the board's bargaining demands, and should be kept fully informed on the progress of the negotiations. The actual negotiations should be open to both the press and the public. Negotiators will learn to bargain in public, just as city councils and legislative committees are learning to function under open meeting laws.

8. School site lay councils should bargain over many issues that are currently handled centrally -- areas beyond the traditional economic issues.

Conclusion

Collective bargaining in education has raised the fundamental question of who should control public schools. The private sector collective bargaining model suggests that educational policy should be worked

out privately by teachers and school administrators. The major loser in this realignment of powers has been the public, since private citizens are now excluded by law from participating in or gaining information about the negotiations which directly affect the quality of public education.

The changes proposed here are based on the principle that in a democracy the people should control their institutions. Since the "consumers" of public education are virtually excluded from exercising any control through the marketplace, they must exercise that control by participating in the decision-making process. The suggestions made here would increase public influence in education by revitalizing the legislative process in school governance at the state, district, and local levels and by opening up new channels for direct public participation in the collective bargaining process.

These suggestions may help to restore proper public influence over educational decision-making. But educators should not stop here in their search for new mechanisms which will enable the public to cheaply and effectively communicate their concerns. Efforts should also be made to design educational programs which increase the choices available to students and parents and make educational institutions more responsive to diverse needs and demands. Above all, the guiding principle should be responsiveness to the public. Collective bargaining for teachers challenges the traditional form of administrative government in schools. It will serve education well if it brings about a new balance of power which permits greater participation by the public, as well as by teachers.

FOOTNOTES

1. For a useful analysis of the differences between collective bargaining in the public and private sectors, see Patricia A. Craig, "The Applicability of Private Sector Collective Bargaining Models in Public Education: Reopening the Question," unpublished paper from the School of Education, University of California, Berkeley.

2. Myron Lieberman and Michael H. Moskow, Collective Negotiations for Teachers, Chicago: Rand McNally & Company, 1966, contains a useful discussion of alternative models of collective bargaining.

3. Harry H. Wellington and Ralph K. Winger, Jr., The Unions and the Cities, Washington, D. C.: The Brookings Institution, 1971 p. 15.

4. See John K. Galbraith, The Affluent Society, Boston: Houghton Mifflin, 1958.

5. Craig, Patricia A., "The Applicability of Private Sector Collective Bargaining Models. . .", p. 6.